

**CITY OF MADERA PLANNING COMMISSION
REGULAR MEETING
June 13, 2023**

CALL TO ORDER: The meeting was called to order by Vice Chairperson Gran at 6:00 p.m.

ROLL CALL

PRESENT: Commissioner Robert Gran Jr. (Chairperson)
Commissioner Ramon Lopez (Vice Chairperson)
Commissioner Rohi Zacharia
Commissioner Saim Mohammad
Commissioner Jose Eduardo Chavez

ABSENT: Commissioner Khubaib (Bobby) Sheikh
Commissioner Balwinder Singh

STAFF: Gary Conte, Planning Manager
Will Tackett, Community Development Director
Keith Helmuth, City Engineer
Raquel Rios, Assistant City Engineer
Brandi Garcia, Recording Secretary
Robert Smith, Senior Planner
James Troyer, Senior Planner
Adelini Rueda, Assistant Planner
Shannon Chaffin, Legal Counsel

PLEDGE:

PUBLIC COMMENT: None

MINUTES: None

CONSENT ITEMS:

1. ABN 2022-02 – Washington Elementary School Public Utility Easement

A finding of General Plan Conformity for the partial vacation of a Public Utility Easement at George Washington Elementary School. The current 60 foot wide Public Utility Easement will be reduced by 20 feet on each side. The easement crosses George Washington Elementary School between E. Lincoln Ave. and E. South St.

Commissioner Gran asked if anyone would like to comment on this item.

Seeing none, the item was closed.

2. Initiation of a Text Amendment to the Zoning Regulations of the Madera Municipal Code (MMC)

Initiation of a Text Amendment to the Zoning Regulations of the Madera Municipal Code (MMC) to remove uses classified as Indoor Fitness, Athletic and Recreational Facilities from the list of uses requiring a use permit in the C1 (Light Commercial), C2 (Heavy Commercial) and CN (Neighborhood Commercial) Zone Districts.

Commissioner Gran asked if anyone would like to comment on this item.

Seeing none the item was closed and returned to the Commission.

A motion was made by Commissioner Zacharia to approve both Consent items together as presented. The motion was seconded by Commissioner Chavez.

Mrs. Garcia polled the Commissioners:

Commissioner Rohi Zacharia – yes
Commissioner Saim Mohammad – yes
Commissioner Jose Eduardo Chavez – yes
Vice Chairperson Ramon Lopez – yes
Chairperson Robert Gran Jr. – yes

The motion carried unanimously.

PUBLIC HEARING ITEMS:

1. TPM 2022-05, CUP 2022-13 & SPR 2022-15 – Schnoor & Kennedy Development

A noticed public hearing to consider an application proposing a tentative parcel map, conditional use permit and site plan review for the property located at the northwest corner of Kennedy St and N. Schnoor Ave. The parcel map will divide the property into two parcels. One parcel is proposed to be developed with a 3,012 sq. ft. drive through car wash and 24 vacuum stalls. The second parcel is proposed to be developed as a gas station with five fueling islands (10 pumps), a 5,000 sq. ft. convenience store and an attached 2,500 sq. ft. quick-serve restaurant. The use permit will allow the sale of beer and wine for off-site consumption in conjunction with the convenience store. The site is located in the C2 (Heavy Commercial) Zone District with a C (Commercial) General Plan land use designation. APN: 013-230-005

Chairperson Gran noted for the record that he had two brief conversations with both Ed and Gail McIntyre.

Will Tackett, Community Development Director presented the item.

This item was continued from the May 9th Planning Commission meeting due to some concerns received from the adjacent property owner. There were concerns pertaining to public improvement requirements as well as concerns from the adjacent property owner. A letter was received from Ed McIntyre relating to the traffic study that was provided to the Commission. Staff met with the property owner to the north and discussed concerns related to shared access. Staff also received an updated site plan from the applicants group based on the direction from the Commission. Scheme B was favored by the Commission, and the site plan is pertaining to that layout. Staff did meet with the applicant and discuss options regarding public improvement requirements.

It was uncertain if a shared approach could be worked out with the owner to the north, but staff is still encouraging that, and conditions remain the same. There is a modification to Condition #30 to ensure that cross access could be executed in the future should a shared approach not be agreed upon by the property owners. Staff added teeth to the condition requesting the current property owner and developer not oppose an agreement in the future if such an agreement is conditioned upon development to the north. We still encourage the shared approach and want to have the ability to integrate development between Ellis, Kennedy and Schnoor so internal trips can be made without having to exit onto the public street and reenter.

With regard to the public improvements on Kennedy, staff was not agreeable to the options presented by the applicant group, however we did include a modification to Condition #85d. That provides the ability for the City to enter into a reimbursement agreement with the applicant. We understand that the improvements are overdue, and this project contributes a fare share to impacts at the intersection for which the improvements are required but we have missed that condition on other developments and entitlements. It's not fair to single out this developer with the full cost without a potential of some reimbursement from other future contributing development in the area. Future projects would be evaluated, and a fair share would be collected for reimbursement to this developer should they complete the improvements.

Mr. Tackett noted that the Planning Dept. also mailed out 28 letters to adjacent property owners with specific mention of the improvements on Kennedy and the potential impact to access to the properties. This does not represent a taking but limits some turning movements into the property. Access is still available, but it limits some turning access into the properties. We are sticking with those conditions, since we believe there is some concern for safety.

He shared that staff did receive a letter from Ed McIntyre just shortly prior to the meeting but had not had a chance to review it in detail but was willing to discuss it at the meeting.

Mr. Tackett recommended that the public hearing be reopened, due to the additional noticing being given to the adjacent property owners, to see if there is additional public comment.

Commissioner Chavez asked Mr. Helmuth, City Engineer, if he could speak regarding some of the potential safety concerns.

Mr. Helmuth the conclusions he has have not really changed. He's gone back through the traffic study and looked at the queuing calculations from the traffic Engineer and those indicate the storage be extended to a fairly significant amount from what it is now. Currently there is no storage left over so any attempt to turn left into those properties would lead result in traffic queuing into the east bound lane and in addition to traffic backing up into the freeway queuing or it might que back into the intersection of Kennedy and Schnoor.

Commissioner Gran confirmed they were speaking of the left turn lane onto Schnoor.

Mr. Helmuth confirmed.

Commissioner Gran asked what makes this project trigger that.

Mr. Helmuth said that if you have viewed the intersection in the past there is not a lot of traffic coming North on Schnoor. What is happening, is there is so little traffic on the southbound approach so there is additional time that is provided to the left turn in question. When you add the additional traffic from this retail development it causes green time to shift from other movements around the intersection. Currently there is probably only a few seconds of green time provided to the southbound movement. When you add the retail development it needs additional time for left turns. That time is shifted from the other movements as well as the southwest left turn movement. This causes a potential for queues to increase. So, yes, the project does have an impact due to spreading out the green times throughout the cycle.

Commissioner Gran said maybe it's above his pay grade, but he sees a gas station, convenience store and a carwash. He doesn't see a lot of retail and traffic is going to be quick. It's freeway and commercial is the angle of the gas station. Madera residents will use it and could be coming from all sorts of roads. He's in that intersection every day coming and going to the theatre since Cleveland is such a mess. If we were worried, we should have taken care of Cleveland. When he reviewed the Cal Trans analysis, they suggested restriping and also suggested a study but put it in bold letters with a note stating they recommended the project proponent provide an analysis of improvements and submit it to their office for further review. He said he was having a hard time seeing how this project triggers all of this when we can maybe do the restriping and see where it goes. The median was already done and was taken out.

Mr. Helmuth asked what was taken out.

Commissioner Gran said the median was extended further when Home Depot went in, but it had to be removed.

Mr. Helmuth said The Home Depot precedes the Ellis overcrossing. There were additional changes made in the area due to the Ellis overcrossing. The latest was the Valero gas station to the East of the intersection. That was inserted to attempt to focus traffic into a left turn pocket to access The Home Depot and serve people who would maybe like to turn into the Valero driveway East of the intersection. At the time Valero went in there was some concern that Farnesis would not allow traffic to turn left and access the Valero. He recalls there was an arrangement they came to allowing everyone to use that. There are no medians there now, but the traffic study suggests it needs to be controlled.

He asked Mr. Tackett to show the picture looking west bound. He noted he spent a few minutes at the intersection and it didn't take long to see there was traffic backing up into the westbound turn lane. There was some potential for cars to go around and through the intersection. It's a fact that green time will be shifted around the intersection. This approach will not receive as much green time and will be impacted.

He asked Mr. Tackett to show the trip generation table. He explained it indicated that the facility has the ability to generate about 380 cars. The traffic engineer did what he was supposed to be considering, and at that location and this comes up with 156 cars primary trips going to the facility and another 195 or so cars that are being redistributed at the intersection. This is a fair number of cars on paper due to visiting that facility.

Commissioner Gran said he sees the calculations and sees where this is going but he's questioning everything. They were blind sided by the way it was presented at the last meeting,

and they want to make sure they understand everything. He's sure there's others in the audience that will say other things too.

Commissioner Zacharia mentioned that the photo with westbound traffic with the cars piling up. Why is one lane lined out for no use. Why is it not being used currently?

Mr. Helmuth said it was lined out because the intersection is not prepared to take dual lefts. It was designed based upon the traffic study from the Ellis overcrossing. To allow it to work, an additional left turn signal would need to be installed on the opposite side of the intersection. The receiving lanes would need to be checked to make sure the vehicles could make the turn and not hit anything. The median nose will have to be pulled back a few feet to allow it. Under the current arrangement, if you took the striping out and allowed both to function, but you would only get maybe a car and a ½ or two cars. It wouldn't help a lot or solve what the traffic study is showing. He's working straight from the numbers in the traffic study. That's his go to source of information.

Commissioner Zacharia said that at the end of the day, it was approved by the City to go ahead and allow it. How could that happen if there were safety concerns.

Mr. Helmuth said there were not safety concerns at that time. He did anticipate over time the traffic would increase the growth would continue. Much of the Ellis overcrossing design precedes him. What would have attempted to be done would be to try to maintain access to the properties along the north side. Nobody wants to tell those property owners they will lose access. But what we have is three left turn pockets that are undersized. Over time it was clear 10 years ago that additional traffic would start to show up. There would be a tipping point and that would likely be a development. That day has come. He doesn't relish this but is working from the traffic study. His observation shows that just a little bit of a timing change would push the traffic further into the westbound travel lane and potentially block traffic.

Commissioner Zacharia asked if they have looked at restricting left hand turns coming out of Home Depot to allow those pockets to grow. It looks like the intersection is quite large. Is that because of the left-hand turn. If it's removed is there the potential to increase that pocket size?

Mr. Helmuth said there was an exhibit included which indicates the required storage for the development. He also attempted to....(unable to hear).

When you provide the storage necessary, there is really no space left over to allow a left turn into the Valero/Farnesis parking lot. This is based on the traffic study numbers. The requirement is based on that information. It shows 175 feet, he inserted 180 feet. He spent 20 minutes or so out at the intersection.

Commissioner Gran asked what time he went.

Mr. Helmuth said it was about 4:30 or 5:00. Peak hours are the ones that count.

Commissioner Gran thanked Mr. Helmuth and opened the public hearing inviting the applicant to step forward.

Bonique Emerson, Precision Civil Engineering Planner stepped to the podium. She is representing the developer and property owner. She had a presentation to answer some concerns that were brought up at the last Planning Commission meeting.

She mentioned the applicant and applicant representative has been in contact with the property owner to the north since 2022. Conversation with Sylvia, the property owner to the north have taken place since the last Planning Commission in May. The developer did discuss with her purchasing the property, but they could not come to a price.

The proposed site plan would allow for shared access if an agreement were met. Regarding the restricting the left turn movement on the nearby property, as Will mentioned, the Traffic Engineer, developer and the City met to discuss options and alternative Conditions of Approval for addressing the issue. Once option they proposed was that a new solution is developed by the City in the future that preserves access to the properties to the north increasing access. The project could be conditioned to pay to develop the new solution for fair share to implement or pay for a fair share of implementing the solution. So, the project would contribute to finding an alternative solution other than what was proposed.

Another alternative is that the project pays a fair share of general traffic improvements in Madera and the City decides what to do about the left turn storage in a separate process.

Another option is that Planning Commission decides the contribution to the left turn issue is small enough that the project can continue without any mitigation.

The last option was delaying the implementation of the Condition for one year post occupancy. This would not hold up the project.

The City disagreed with these alternatives. The developer is ok with the condition as written but wants to make sure compliance with the condition will not delay the project. They are requesting the Condition be removed but if it remains, they want to request it be delayed one year so any hiccups in implementing the Condition does not delay the project construction.

Commissioner Gran thanked Mrs. Emerson and asked if anyone else would like to speak regarding the item.

Ed McIntyre, property owner, stepped to the podium. He wanted to comment on the Conditions from Engineering regarding the medians. The left turn issue is causing the potential to extend the median and block traffic of the five business owners. Commissioner Zacharia said at the last meeting that this project doesn't impact the left turn lanes. If you go the traffic study and the number of increased trips due to the project, it's zero. There is no direct impact from this project on that left turn movement. In fact, there's a one second increase in the delay from the existing condition to the year the project was put into service. In his letter he cited all the tables to be referred to. Although there is a queue of 176 feet with only 50 feet of storage, the signal synchronization and green time has been allowing it to perform beautifully. He has been there in the am and the pm and timed the green time in the left turn onto Schnoor. It runs from three seconds to twenty seconds. When you see four or so cars queued up the green time extends and stays open until that pocket is empty. When you get to the project, the level of service is still a C. The impact will be from the Foxglove Shopping Center. It's 10x bigger than this project and has a 188,000 sq. ft. of leasable space and there is going to be a significant increase at that turn. But it's been approved for ten years. There has been ten years' worth of

extensions, but no development is occurring. He's afraid that this project will be burdened with the full impact of what happens when Foxglove comes. What was addressed in the traffic study in 4.1 is that the project could restripe the one lane. Engineer Helmuth mentioned there could be some reconstruction to allow the two left turn lanes. He thinks that would increase the capacity dramatically. If you can handle 176 feet now with one lane and maintain the level of service at C and then add 36 feet, you are still going to maintain Level of service C. If you want to account for future impacts, striping the left turn lane would handle it until Foxglove comes online. If the traffic study recommends two lanes and not cutting off access to business owners and burdening the developer with construction, he is not responsible for, he thinks the left turns are a solution.

The median on Schnoor, he doesn't think that's called for either. If you look at the southbound existing traffic with project northbound, there are so few trips that there is very little potential for conflict. At the time the Ellis overcrossing gets the on and off ramps, this will all be solved and not be an issue. The fact we have known about this and that it would become a problem, we should have been doing something about it. Cal Trans required us to build that overcrossing to accept the ramps, in other studies, Cal trans mentioned they were eventually going to have those. We spent over 20 something million dollars' worth of overcrossing to allow them to relocate dangerous ramps. Which they should do but for us locally, we should be trying to make that happen sooner rather than later.

He just wanted to say that he thinks the medians are not born out of the Traffic Study. He thinks the two lanes benefit everyone and doesn't cut off the businesses.

Commissioner Gran said he thinks it was laid out well, but he does wish they had received the letter sooner.

Commissioner Gran asked if anyone else would like to speak regarding the project.

Mr. Samrao was online wishing to speak. He wanted to note that City staff recommends approving a CEQA exemption siting a Class 32 exemption, that requires finding that the project will have no significant impact on traffic though all the discussion has been regarding the impact of traffic. How can staff state that it will not have an impact. Approving it with that exemption would be a violation of CEQA.

He also wanted to note that as Chairperson Gran noted, the Traffic Study does not mention lengthening the median on Kennedy. He's not sure how the City Engineer and the Community Development Director got that idea. It says the westbound lane should be restriped, the City Engineer said that if we restripe it, you can get maybe a car and a ½ but you could easily fit four or maybe five vehicles.

Those are his comments, and he hopes the City takes CEQA seriously and would hope they also take seriously their duty to not act unreasonably or abuse its discretion. He also sent a comment by email explaining this earlier today.

Commissioner Gran said he agrees with him that it looks like there are three or four cars that could stack on that second lane.

With nobody else wishing to speak for or against the project, the public hearing was closed, and the item was returned to the Commission for further processing.

Commissioner Chavez asked the City Engineer to answer the questions brought up by Mr. McIntyre as well as the concerns brought up by the last person who spoke.

Mr. Helmuth said he would do his best. Starting with Schnoor, when the existing driveway went in on the northern property, all intents were to go ahead and expand the property lines providing access to both properties. Somehow, it was placed just a bit further to the north which was a bit of a problem. The initial site plan proposed a driveway that was several feet away from the other one. In fact, the return radiuses were overlapping. His biggest concern is the movements have the potential to crisscross against each other and confuse drivers and cause accidents. In regard to not putting in a median, the storage requirement going onto Kennedy from Schnoor will then be shared with the driveway flowing into the new retail development. The storage painted for the driveway that exists is probably less than 50 feet. It's probably inadequate. The storage will overlap but the cars will find a way between other cars. The median is necessary to prevent overlap of traffic and unsafe maneuvers. The reason they would prefer to not have the median is the reason it's needed. It's unsafe to have the cars attempting to cross over each other.

In regard to Kennedy, the numbers are the numbers. There's been debate about the photos he provided. That's just him picking a time, there's potential for the storage to increase at other times. The storage requirements are based on the 95th percentile statistics of whether the queues will be exceeded. If those are exceeded and spotted a couple times randomly it about the 60th or 70th percentile. He expects that every so often they will be greater. When you put the gas station, carwash and convenience store in the green time is going to shift. The three to twenty second green times mentioned by Mr. McIntyre, three is minimum time and the twenty seconds will drop if the cycle moves over to the southbound movements to provide green time there. Then the ques will increase over and above what he spotted in the photos.

Commissioner Gran said he still has a problem with the concrete median. The cars will attempt to get into the Farnesis/Valero parking lot. They will park in the through lanes to do it, they will take up some of the left turn storage intended for the south left turn, it's human nature. He said he's been doing traffic engineering for 30 years; he works based upon human nature at times and other times just based on the pure and simple storage as in this case.

Commissioner Chavez said Mr. Helmuth mentioned that when the Foxglove project was looking at this intersection there wasn't this problem. Now that this project is coming, there are those safety issues. Is this traditional that we include other projects like Foxglove, to be considered in a traffic study even though there is no progress.

Mr. Helmuth said it is normal. When you're doing a traffic study, there may be other projects that have been approved and those take precedence. Some may have a traffic study from their project, and it calculates the need for their traffic. Les Schwab did not have a traffic study because it doesn't generate that much traffic. The traffic study requirement for the retail center, takes the existing count and must assume, based on the Foxglove Shopping Center being approved is the same as if it were physically built at this time, for the purpose of review. It also does show the need for dual left turn lanes on the westbound approach but to date we have not seen it move forward. The next project that is on deck will be responsible for those improvements. It's a standard policy that most Cities follow. If a project is approved, their

traffic gets layered on the existing and then the project moving forward through entitlements at the time layers their traffic on the existing plus pending or approved projects.

Commissioner Chavez thanked Mr. Helmuth.

Commissioner Lopez confirmed the other developer was already going to do these improvements if they build, but whoever comes first we will try to get them to do it.

Mr. Helmuth said yes.

Commissioner Lopez asked who is paying for the improvements.

Mr. Helmuth said unfortunately in the traffic engineering world, it's the straw that breaks the camels back. When you pass a point where mitigation is required, it gets assigned to the project moving forward. If there were no traffic signal, there would be impact fees that would assist in paying for the traffic signal. At this intersection, they are already there, and the impact fees don't pay for the additional left turn. Unfortunately, those improvements do go along with the developer.

This is not new; it just feels inappropriate when you are the person or entity that is experiencing that need for mitigation.

Commissioner Zacharia asked if Foxglove will be on the hook for any of these turn things when they have to make the two-lane turn.

Mr. Helmuth said it will be their intent to work towards it with like Will had said, a reimbursement agreement. The conditions of approval may have other opinions of what we attempt to do based on their EIR. It's the intent but he cannot guarantee the success.

Commissioner Gran said that he cannot recall them participating or accepting this type of conditions.

Mr. Helmuth said it references the Traffic Study and for that development there are probably 12 or 15 locations where fair share was required through fair share participation or actual construction. There was a mitigation monitoring report that goes along with the project and that intersection was included as well as the dual left turn lanes.

Mr. Tackett noted that was a condition of the mitigation in the Environmental Impact Report for Foxglove.

Commissioner Gran confirmed there was an open-ended condition that this would be wrapped in.

Mr. Tackett replied yes, this is one of the improvements in the mitigation monitoring and reporting program. He also noted in regard to the gentleman's comment on CEQA, it is important to note that the threshold standard and criteria in CEQA has changed. We have been talking about level of service which is a measure of delay and performance standards on our street. That ties back to City's adopted policies and standards but the threshold for CEQA today to evaluate transportation impacts is vehicles miles traveled. It's a product of trips generated, and the distances traveled. That is not identified as a potential significant impact and that is

why we were able to move forward with an exemption under the Class 32 in fill exemption category. There were no cumulative or potentially significant impacts identified to that exemption, so we feel comfortable using that categorical exemption for this project. The performance standards on our streets are all adopted City standards and is not a criteria threshold under CEQA. LOS is not considered an environmental impact. It used to be a few years ago.

Commissioner Gran noted that it was and could be a common misconception.

Mr. Tackett agreed.

Commissioner Gran said the ball was back in their court. He said he would like to give the applicant the one year to get this done and would only like the lines changed without the median. He thinks the median is more or less triggered by Foxglove. There's a storage yard right behind the hotel. There's a lot of trucks and if you put a median there it's going to get chewed up.

Commissioner Zacharia said he thinks if they want to change things in the future it's easier to paint over a yellow line than tear out a median.

Commissioner Gran agreed. He said we can make it a smooth transition and see how it works. There is no way this project creates any traffic near the In-N-Out and we didn't redesign Cleveland. He's been in the same position as this applicant, and he was the unlucky person that triggered the need for a light or whatever.

Commissioner Zacharia said if you put a median, they're going to try to make an illegal u turn when the median ends to try to get into the gas station.

Commissioner Lopez said his concern is that Cleveland is a bad intersection already. If the City Engineer is telling us, these are the numbers and he's going by the traffic study, he doesn't want another situation like this. Maybe we should give them another year and if another study says it's needed, then they have to do it. If it's not needed, then it's not needed.

Commissioner Gran said he thinks they should do the restripe and then we can revisit this and put a trigger point for when Foxglove comes in with a tenant. At that time, we can pull another traffic study, and everyone involved participates. He mentioned again that he was unlucky and never got reimbursed from anyone. You only have twenty years and then you're on your own and never see any money.

Commissioner Chavez said he agreed with Ramon. He gave the example of Cleveland; we have seen how the other In-N-Outs create traffic. If it will be the same on Cleveland, considering Gateway..... (sentence was not finished).

Commissioner Gran said there is more stacking at this one. He's picking on them but complimenting them at the same time. But, if someone did a traffic study, he said it would be seen that In-N-Out creates way more traffic.

Commissioner Zacharia said he's not disagreeing with the traffic study on this project but just that it's unfair to them. He thinks there are creative solutions that would not have that impact.

Commissioner Mohammad said there will be onsite queuing, so it won't create a backup.

Commissioner Zacharia asked if there was a backup, we could have something that says they have something in place to direct traffic like In-N-out.

Commissioner Gran said yes and no, but In-N-Out cannot direct traffic on a public street. Only signage on sight that.

Commissioner Zacharia said he notices with the Fast Track on Pine their line sometimes starts stacking towards the road.

Commissioner Gan said that is not one of the best projects. They did mess up a few things on that because the stack comes back across the vacuums. This one seems to be planned much better.

Shannon Chaffin, Legal Counsel for the City, said he wanted to flag some potential impacts later depending on the way they go. If you do a future traffic study and delay it, you will have to do those improvements. If it requires a median, then this developer may be on the hook for those in the future. It may have more traffic impacts later.

Commissioner Gran asked, what if the traffic study was triggered by Foxglove.

Mr. Chaffin said there are other developments that could come on in the interim. There are too many possibilities. You can enter into a deferral agreement for one year. If someone came in within that time, or someone else, and they were the first to build it may be possible it may be satisfied. Usually in the reimbursement agreements, we will try to get reimbursement but if they put it in first and you have entered into the agreement you will have to pay your fair share.

Commissioner Gran said there would be two bearing the burden instead of just one.

Mr. Chaffin asked who would be interested in removing the median and putting in striping for two left turn lanes.

Three Commissioners raised their hands.

Mr. Chaffin asked who would be ok with a deferral agreement.

A few Commissioners raised their hands.

Mr. Chaffin asked who would be ok with a deferral agreement.

Commissioner Gran said he is leery of that.

Commissioner Mohammad asked what about a temporary median like temporary cones.

Mr. Chaffin said the City has adopted City Standards for medians and asked Mr. Helmuth to chime in.

Mr. Helmuth said those are considered temporary until the permanent medians go in so that would not be acceptable.

Mr. Chaffin said what's in the basket right now is no median, only restriping and deferral for one year under a deferral agreement.

Commissioner Zacharia said we keep talking about the median and restriping. Cal Trans is recommending restriping and the City requirement that it has to be a median. Are we approving something that actually isn't an approval because it has to be a median regardless.

Mr. Chaffin asked Mr. Helmuth to confirm it is his recommendation.

Mr. Helmuth confirmed it was his recommendation.

Commissioner Zacharia said he's saying we have Code for the City. Is it an option to restripe?

Mr. Chaffin said the Planning Commission has the authority to ignore the City Engineer. Not that he's recommending either way.

Commissioner Lopez said Cal Trans is commenting for their jurisdiction and the City Engineer is commenting regarding the City roads.

Commissioner Gran said yes but Cal Trans has input on that area.

Commissioner Zacariah asked again if it was possible to do that.

Mr. Chaffin said it is a legal option, but the City Engineer is saying it's not a good traffic option. He said he wasn't saying it doesn't come without legal risk, they were advised of that separately, but it is a policy decision for the Planning Commission whether or not to take the legal risk in this one.

Commissioner Zachara said his only concern is the legal risk had to be assumed when the median was removed. Someone at the City level had to approve the current condition. Why now are we facing a legal issue if we continue what's there?

Mr. Chaffin replied, the reason is that things change, he's not familiar with what happened in the past, but he is familiar with what the City Engineer is saying now. Based on what the City Engineer is saying now he takes that and provides legal analysis.

Commissioner Garn said he's in this intersection quite a bit and Keith has a valid point, but he doesn't see the traffic like that now. Now, if Farnesis and the hotel develop into a retail center or multiple level hotel, a new one that would attract more visitors then their hands are tied. When he sees a gas station and carwash right now, he's in a quandary. He still feels like the one-year deferral and the restriping could happen and maybe a traffic study triggered when Foxglove comes or the next big project. Whatever triggers it, it doesn't necessarily have to be Foxglove.

Mr. Chaffin said the only thing about requiring a future traffic study is you can only put it on this developer. Each project is required to analyze their own traffic impacts. If you put a traffic study

for this development on in the future it could result in additional improvements that could be required. He's notice that traffic usually gets worse over time not better. Things get more congested as things grow.

Commissioner Gran asked Mr. Chaffin to give them some language.

Mr. Chaffin said they would be looking at Condition 85d on page 13 of 16. It says the private intersection when completed shall accommodate, then he would add 'restriping and associated improvements' then in parentheses (no new median). On the second page it talks about a, b, c & d and then there's a sentence about the design. On the next paragraph where it talks about construction improvements you can add language that this condition may be deferred for up to one year after occupancy if the developer enters into a deferral agreement with the City for the same.

Then the recommended language for the reimbursable that's highlighted on the handout would be taken out since there doesn't appear to be any interest for a reimbursement agreement.

He asked Keith if he could live with that on an Engineering perspective.

Mr. Helmuth said he thinks he could live with it. With any luck the gas station and the rest of the development doesn't generate the traffic the study suggests then there will not be an issue. He asked Mr. Chaffin if there is a need for liability language.

Mr. Chaffin said that would be addressed in the deferral agreement.

Mr. Helmuth said he has concerns with one year and that's why he brings up the liability.

Mr. Chaffin said they have some language, and they can move forward with the language that was given.

Commissioner Lopez moved to approve the language that was presented by Mr. Chaffin. Commissioner Chavez seconded the motion.

Mrs. Garcia polled the Commissioners.

Commissioner Rohi Zacharia -	yes
Commissioner Saim Mohammad -	yes
Commissioner Jose Eduardo Chavez -	yes
Vice Chairperson Ramon Lopez -	yes
Chairperson Robert Gran Jr. -	yes

The motion carried unanimously.

Mr. Chaffin said he remembered they did not ask the applicant if he was ok with the condition as it was modified.

Commissioner Gran reopened the public hearing and asked the applicant to step forward.

Bonique Emerson stepped to the podium and confirmed they were in agreement.

2. CUP 2023-03 – Country Club Chevron & Commercial Center

A noticed public hearing to consider an application for a conditional use permit for the development and operation of a 2,200 sq. ft. drive through coffee shop. The use permit would also allow for the sale of beer and wine for off-site consumption and the sale of tobacco products within a previously approved 4,000 sq. ft. convenience store. The site is located at the southeast corner of Country Club Dr. and Adell St. in the C1 (Light Commercial) Zone District with a C (Commercial) General Plan land use designation. APN: 003-050-026

Gary Conte, Planning Manager presented the item.

Commissioner Lopez said usually applicants apply for an extension. Did they apply for an extension, and it was granted for the site plan review but not the cup?

Gary said they have been moving forward with the site plan review and had submitted to Building to move forward but there was not any movement in moving forward with the use permit.

Mr. Tackett said the Municipal Code also gives authority to the Director to extend the site plan review but not the use permit which is why we are back before the Commission.

Commissioner Gran opened the public hearing and invited the applicant to step to the podium.

Paul Brar stepped to the podium. He said they were not aware there were two independent extensions, and it was brought to their attention that they could only extend the one.

Commissioner Gran said he was on the Commission when the project was originally approved, and it was in the Conditions.

He confirmed they are in agreement with all Conditions.

Mr. Brar confirmed.

Dave Robertson from Nolan Thomas Construction stepped to the podium. He said they are in agreement except for one thing. The Architect did blow it on the extension, but they have been diligent in pursuing the development on site and off site. They are working through the permit process. The one minor thing is he would like to have a provision. They had originally submitted for a convenience store for 4,000 sq. ft.

Commissioner Gran mentioned that he members they redid it.

Mr. Robertson said they are working on the parking criteria so he would like to see if they could keep the 4,000 sq. ft. convenience store and not be reduced if they can meet the parking.

Commissioner Gran asked Mr. Tackett if he was ok with that.

Mr. Robertson said it does show the 4,000 sq. ft. in the documents in the staff report. There is substantial on site as well as off site work. They have made substantial effort with the City.

Commissioner Gran said he doesn't think there is a problem with that.

Mr. Tackett said he was not there when it was originally improved but as long as the size reduction wasn't due to purposes of reducing a level of impact or avoiding triggering a mitigation requirement there is no issue with the size. Those are conditions of the development within the site plan review and staff can work with that.

Commissioner Gran said they were just not wanting to create a problem.

Mr. Conte said the reduction was due to parking demands and compliance with the parking standards of the City's Municipal Code. At the time, the parking was short for the convenience store.

Mr. Chaffin reminded the Commission that what was before them today was not the site plan which would include the size of the convenience store. The use permit is before them which includes the alcohol, tobacco and the drive through coffee shop. Technically you could put conditions in the use permit, but it would require the site plan to be amended.

Commissioner Gran said he would like to let staff address the concern.

With no further questions of the applicant, Commissioner Gran thanked them and asked if anyone else would like to speak regarding the item.

Seeing none, the public hearing was closed, and the item was returned to the Commission for further processing.

Commissioner Mohammad moved to approve the item as presented. Commissioner Chavez seconded the motion.

Commissioner Rohi Zacharia -	yes
Commissioner Saim Mohammad -	yes
Commissioner Jose Eduardo Chavez -	yes
Vice Chairperson Ramon Lopez -	yes
Chairperson Robert Gran Jr. -	yes

The motion carried unanimously.

3. REZ 2022-08, CUP 2022-34 & SPR 2022-42 – Mammoth Oxygen, Inc.

A noticed public hearing to consider an application for a rezone, conditional use permit and site plan review to allow the establishment of a Mammoth Oxygen retail welding supply store at 794 S. Pine St. The rezone would rezone the property from the current U (Unclassified) Zone District to I (Industrial) for consistency with the site's General Plan land use designation of I (Industrial). The use permit along with the site plan review, would allow the mixing and storage of paint as well as the storage and handling of oxygen supply tanks and to allow retail sales in an Industrial Zone District. The site is located at the northwest corner of S. Pine St. and W. Almond Ave. APN: 009-330-026

This item was requested to be continued to the July 11th Planning Commission meeting.

Commissioner Lopez moved to continue the item as requested. Commissionerseconded the motion.

Mrs. Garcia polled the Commissioners.

Commissioner Rohi Zacharia -	yes
Commissioner Saim Mohammad -	yes
Commissioner Jose Eduardo Chavez -	yes
Vice Chairperson Ramon Lopez -	yes
Chairperson Robert Gran Jr. -	yes

The motion carried unanimously.

NON-PUBLIC HEARING ITEMS: None

ADMINISTRATIVE REPORTS: None

COMMISSIONER REPORTS: None

ADJOURNMENT: 6:07 pm



Planning Commission Chairperson



Brandi Garcia, Recording Secretary